



# The Commissions of Inquiry Act, 1952

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# The Commissions of Inquiry Act, 1952

[Act 60 of 1952]

[14th August, 1952]

*An Act to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers*

Be it enacted by Parliament as follows :—

**Statement of Objects and Reasons of Amending Act 79 of 1971.**—Certain difficulties and deficiencies experienced in the working of the Commissions of Inquiry Act, 1952 were referred to the Law Commission for suggesting suitable amendments to the Act. Taking into account the importance of the Act and the need for a proper system of inquiries, the Law Commission undertook a comprehensive examination of the entire Act and made a number of recommendations in their Twenty-fourth Report for the revision of the Act in several respects:

2. The main recommendations of the Law Commission have generally been accepted by Government after considering the views expressed on those recommendations by the State Governments, Union territory Administrations and the Ministries of the Government of India. To give effect to the accepted recommendations of the Law Commission, the Commissions of Inquiry (Amendment) Bill, 1969 was introduced in the Lok Sabha on 21 st November, 1969 and was later on referred to a Joint Committee of Parliament. The Joint Committee submitted their report to both the Houses of Parliament on 9th November, 1970. However on the dissolution of Fourth Lok Sabha, the Bill as reported by the joint Committee lapsed. The present Bill seeks to give effect to the provisions of the Bill as reported by the Joint Committee with some minor modifications which appears to Government to be necessary.

3. The notes on clauses explain the provisions of the Bill in detail.

**Statement of Objects and Reasons of Amending Act 36 of 1986.**—Sub-section (4) of Section 3 of the Commissions of Inquiry Act, 1952 provides that the appropriate Government shall cause to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State, the report, if any, of any Commission on the inquiry made by it together with a memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.

2. To provide for the situations where the fulfilment of the statutory obligation to lay the report of the Commission before the House of the People or the Legislative Assembly of a State involves practical difficulties or where a Commission of Inquiry is appointed to inquire into sensitive matters of public importance and the inquiry report may contain matters of sensitive nature on account of which it may not be desirable in the public interest to lay such report before the House of the People or the Legislative Assembly, the Commissions of Inquiry Act, 1952 was amended by the Commissions of Inquiry (Amendment) Ordinance, 1986 (6 of 1986) promulgated by the President on the 14th May, 1986. The Ordinance inserted two new sub-sections (5) and (6) in Section 3 of the Act. New sub-section (5) provides that the provisions of sub-section (4) of the said Section 3 shall not apply in cases where the appropriate Government, being satisfied that in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or in the public interest, it is not expedient to lay such report before the House of the People or the Legislative Assembly of the State, issues a notification to that effect in the Official Gazette. By virtue of the new sub-section (6), the appropriate Government is required to lay every notification issued under sub-section (5) before

the House of the People or the Legislative Assembly and seek approval thereon within the period mentioned therein.

3. The Bill seeks to replace the aforesaid Ordinance.

**Statement of Objects and Reasons of Amending Act 63 of 1988.**—Section 10A of the Commissions of Inquiry Act, 1952 provides for penalty for acts calculated to bring a Commission of Inquiry or any member thereof into disrepute and provides for the procedure for taking cognizance of such offence. Under the procedure specified in the section, the provisions of the Code of Criminal Procedure will apply and no prosecution can be launched except with the previous sanction of the Central Government or the State Government, as the case may be. It is proposed to amend this section to change this procedure to provide that an offence under this section is triable by the High Court by ordinary procedure prescribed under the Code of Criminal Procedure on a report of the Commission of Inquiry concerned without committal proceedings and that the personal attendance of the members of the Commission of Inquiry as complainants would not be necessary.

2. Opportunity is being availed of to give effect to the recommendations of the Committees on Subordinate Legislation of both the Houses of Parliament to the effect that the Commissions of Inquiry Act should be amended to make specific provision for appointment of assessors and for payment of travelling allowance and dearness allowance to assessors and witnesses. Such a provision at present exists in the Commissions of Inquiry (Central) Rules, 1972. made under the Act.

3. The Bill seeks to achieve the above objects.

**1. Short title, extent and commencement.**—(1) This Act may be called the Commissions of Inquiry Act, 1952.

<sup>1</sup>[(2) It extends to the whole of India:

<sup>2</sup>[\* \* \*].]

(3) It shall come into force on such date<sup>3</sup> as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(1) the Central Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List I or List II or List III in the Seventh Schedule to the Constitution; and

(2) the State Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List II or List III in the Seventh Schedule to the Constitution:

<sup>4</sup>[Provided that in relation to the State of Jammu and Kashmir, these clauses shall have effect subject to the modification that—

1. Subs. by Act 79 of 1971, S. 2 (w.e.f. 30-12-1971).

2. Proviso omitted by Act 34 of 2019, Ss. 95, 96 & Sch. V (w.e.f. 31-10-2019). Prior to omission it read: “Provided that it shall apply to the State of Jammu and Kashmir only in so far as it relates to inquiries pertaining to matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.”

3. 1-10-1952 [Vide S.O.R. 1970, dt. 30-9-1952].

4. Added by Act 79 of 1971, S. 3 (w.e.f. 30-12-1971).

- (a) in sub-clause (i) thereof, for the words and figures “List I or List II or List III in the Seventh Schedule to the Constitution”, the words and figures “List I or List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir” shall be substituted;
- (b) in sub-clause (ii) thereof, for the words and figures “List II or List III in the Seventh Schedule to the Constitution”, the words and figures “List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir” shall be substituted;
- (b) “Commission” means a Commission of Inquiry appointed under Section 3;
- (c) “prescribed” means prescribed by rules made under this Act.

#### STATE AMENDMENTS

**Union Territory of Jammu and Kashmir.**—In its application to the Union Territory of Jammu and Kashmir, in clause (a), in sub-clause (ii), *omit* the Proviso. [Vide S.O. 1123(E), dated 18-3-2020 (w.e.f. 18-3-2020)].

**Union Territory of Ladakh.**—In its application to the Union Territory of Ladakh — Same as that of UT of Jammu and Kashmir. [Vide S.O. 3774(E), dated 23-10-2020].

**CASE LAW ▶ Expressions “State Government” and “appropriate Government”.**—For application of Commissions of Inquiry Act, 1952 in NCTD, said expressions, mean Central Government. GNCTD cannot pass an appropriate order appointing a Commission of Inquiry in exercise of its executive power, *State (NCT of Delhi) v. Union of India*, (2020) 12 SCC 259.

<sup>5</sup>[2-A. **Construction of references to laws not in force in the State of Jammu and Kashmir.**—Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]

#### STATE AMENDMENTS

**Union Territory of Jammu and Kashmir.**—In its application to the Union Territory of Jammu and Kashmir, *omit* Section 2-A. [Vide S.O. 1123(E), dated 18-3-2020 (w.e.f. 18-3-2020)].

**Union Territory of Ladakh.**—In its application to the Union Territory of Ladakh — Same as that of UT of Jammu and Kashmir. [Vide S.O. 3774(E), dated 23-10-2020].

**3. Appointment of Commission.**—(1) <sup>6</sup>[Save as otherwise provided in the Lokpal and Lokayuktas Act, 2013, the appropriate Government may], if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by <sup>7</sup>[each House of Parliament or, as the case may be, the Legislature of the State], by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the

5. *Ins.* by Act 79 of 1971, S. 4 (w.e.f. 30-12-1971).

6. *Subs.* for “The appropriate Government may” by Act 1 of 2014, S. 58 and Sch. (w.e.f. 16-1-2014).

7. *Subs.* by Act 19 of 1990, S. 2 (w.e.f. 28-8-1990).



notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly—

Provided that where any such Commission has been appointed to inquire into any matter:

- (a) by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is functioning;
- (b) by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States.

(2) The Commission may consist of one or more members appointed by the appropriate Government, and where the Commission consists of more than one member, one of them may be appointed as the Chairman thereof.

<sup>8</sup>[(3) The appropriate Government may, at any stage of an inquiry by the Commission, fill any vacancy which may have arisen in the office of a member of the Commission (whether consisting of one or more than one member).

(4) The appropriate Government shall cause to be laid before <sup>9</sup>[each House of Parliament or, as the case may be, the Legislature of the State], the report, if any, of the Commission on the inquiry made by the Commission under sub-section (1) together with a memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.]

(5) <sup>10</sup>[\* \* \*]

(6) <sup>11</sup>[\* \* \*]

8. *Ins.* by Act 79 of 1971, S. 5 (w.e.f. 30-12-1971).

9. *Subs.* by Act 19 of 1990, S. 2 (w.e.f. 28-8-1990).

10. Sub-section (5) *inserted* by Act 36 of 1986, S. 2 (w.r.e.f. 14-5-1986) and *omitted* by Act 19 of 1990, S. 2 (w.e.f. 28-8-1990). Prior to omission it read as:

“(5) The provisions of sub-section (4) shall not apply if the appropriate Government is satisfied that in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or in the public interest, it is not expedient to lay before the House of the People or, as the case may be, the Legislative Assembly of the State, the report, or any part thereof, of the Commission on the inquiry made by the Commission under sub-section (1), and issues a notification to that effect in the Official Gazette.

*Explanation.*—For the purpose of sub-section (5), “report includes an interim report and all proceedings of a Commission.”

11. Sub-section (6) *inserted* by Act 36 of 1986, S. 2 (w.r.e.f. 14-5-1986) and *omitted* by Act 19 of 1990, S. 2 (w.e.f. 28-8-1990). Prior to omission it read as:

“(6) Every notification issued under sub-section (5) shall be laid before the House of the People or, as the case may be, the Legislative Assembly of the State, if it is sitting, as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its reassembly, and the appropriate Government shall seek the approval of the House of the People or, as the case may be, the Legislative Assembly of the State, to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People or, as the case may be, the Legislative Assembly of the State and if the House of the People or, as the case

**CASE LAW ► Power of Central Government to appoint Commission of Inquiry.**—Power of Central Government to appoint Commission of Inquiry, held, not restricted to affairs of the Union Government only. Conduct of State Ministers is a “definite matter of public importance”. Central Government can always investigate facts when allegations of corruption and misuse of power in a State Government is made, *State of Karnataka v. Union of India*, (1977) 4 SCC 608.

Power of Central Government to appoint a Commission against sitting Ministers of State upheld, *State of Karnataka v. Union of India*, (1977) 4 SCC 608.

► **Construction and scope of Commission of Enquiry.**—The appropriate Government is under a statutory obligation to appoint a Commission of Inquiry in a case where a resolution in that behalf is passed by the House of the People or, as the case may be, by the Legislative Assembly of the State and the appropriate Government has, in such a case, no option or discretion in the matter. In the absence of such a resolution, the power to appoint a Commission is, however, optional and discretionary, even if there is any definite matter of public importance. A commission may be appointed by the appropriate Government if it is of the opinion that it is necessary so to do. This opinion is, by the words of the section, subjective. In other words, even if there is any definite matter of public importance, the appropriate Government may not appoint a Commission of Inquiry if it is of opinion that it is not necessary so to do, *Bhagwat Dayal Sharma v. Union of India*, ILR (1974) 1 Del 847.

► **Nature of function of Commission.**—Nature of function of Commission. Whether usurpation of judicial power by the executive, *Ram Krishna Dalmia v. S.R. Tendolkar*, 1959 SCR 279.

► **Admissibility of Report of Commission.**—Report of Commission of Enquiry is not binding on State which constitutes such Commission of Enquiry nor its findings are binding on those against whom recommendation is made. Conclusions of such Commission are not admissible in courts of law, in criminal case or even in civil case. Such conclusions are merely advisory in nature. State cannot act unfairly by refusing to act on such findings if it has accepted such findings, as it is bound by rule of law and has duty to act fairly, *P.P.M. Thangaiyah Nadar Firm v. Govt. of T.N.*, (2006) 5 CTC 97(FB).

Contents of the report of a fact-finding committee held, cannot be admitted in evidence without proof of facts, *R. Venkatkrishnan v. CBI*, (2009) 11 SCC 737 : (2010) 1 SCC (Cri) 164.

► **Recommendations and findings of Inquiry — Nature.**—Recommendations and findings of Inquiry — Nature, *Ram Krishna Dalmia v. S.R. Tendolkar*, 1959 SCR 279.

► **Legislative competence.**—Section 3 falls within the legislative competence of Parliament, *State of Karnataka v. Union of India*, (1977) 4 SCC 608.

► **Appointment of Commission.**—Inquiry and the investigation by the Commission do not amount to contempt of Court, *Jagannath v. State of Orissa*, (1968) 3 SCR 789.

Commission with an object to set up and maintain high standard of moral conduct, purity and integrity, in political administration. Held, it is a valid exercise of power and appointment not ultra vires and mala fide, *Jagannath v. State of Orissa*, (1968) 3 SCR 789.

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may be, the Legislative Assembly of the State makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be.”

► **Prosecution against a former Chief Minister.**—Prosecution against a former Chief Minister, Minister, Public Servant or person connected with the former administration can be initiated without setting up a Commission of Inquiry prior to such prosecution, *Sheonandan Paswan v. State of Bihar*, (1987) 1 SCC 288 : 1987 SCC (Cri) 82.

► **“Court” — What is.**—Commission of Inquiry set up under 1952 Act with sitting Judge of Supreme Court as its Chairman, is not a “court”, hence contempt of Commission/Commissioner cannot amount to contempt of court, *Subramanian Swamy v. Arun Shourie*, (2014) 12 SCC 344 : (2014) 6 SCC (Cri) 704.

► **Articles 75 & 164 (2).**—Articles 75 & 164 (2) of the constitution do not operate as bar against institution of inquiries by Commissions set up under Commissions of Inquiry Act, *State of Karnataka v. Union of India*, (1977) 4 SCC 608.

► **Evidentiary value.**—Trial court is not bound by object and findings of Inquiry Commission. Acceptance of report by Government would only suggest that being bound by rule of law and having duty to act fairly, Government had endorsed it. However, it has no evidentiary value in criminal trial, *Noorul Huda Maqbool Ahmed v. Ram Deo Tyagi*, (2011) 7 SCC 95 : (2011) 3 SCC (Cri) 31.

► **Political Inquiry.**—Where the object of the inquiry to be made by the Commission appointed under Section 3 of the Act was to take appropriate legislative or administrative measures to maintain the purity and integrity of political administration in the State, the appointment of the Commission of Inquiry was invalid exercise of the statutory power by the State Government under Section 3 of the Act, *Jagannath v. State of Orissa*, (1968) 3 SCR 789.

► **Appointment by Central Government.**—Notification dated 11.12.1956 by Central Government appointing Inquiry Commission does not violate Article 14 of the Constitution, *Ram Krishna Dalmia v. S.R. Tendolkar*, 1959 SCR 279.

► **Delegation of power.**—Commission of Inquiry Act, 1952 having laid down its policy, a delegation of power by a notification under Section 3 of the Act is not vitiated at all, for the legislation by the delegatee will have to conform to the policy so laid down by the Act, *Ram Krishna Dalmia v. S.R. Tendolkar*, 1959 SCR 279.

► **Appointment of High Court Judges.**—Judge of a High Court continues as Judge and can act as commission of enquiry petition presented not at the seat of High Court but at a place where the Judge was functioning as commission of enquiry. Not irregular, *Alok Kumar Roy v. Dr S.N. Sarma*, (1968) 1 SCR 813.

► **Evidentiary value of finding of Commission.**—Reports of Commissions of Inquiry set up in the past cannot justify a departure from rules of evidence or fundamental tenets of criminal justice system, *Kailash Gour v. State of Assam*, (2012) 2 SCC 34 : (2012) 1 SCC (Cri) 717.

**4. Powers of Commission.**—The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) <sup>12</sup>[summoning and enforcing the attendance of any person from any part of India] and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;

- (e) issuing commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed.

**5. Additional powers of Commission.**—(1) Where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) should be made applicable to a Commission, the appropriate Government may, by notification in the Official Gazette, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject-matter of the inquiry<sup>13</sup>[and any person so required shall be deemed to be legally bound to furnish such information within the meaning of Section 176 and Section 177 of the Indian Penal Code (45 of 1860)].

(3) The Commission or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject-matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of Section 102 and Section 103 of the Code of Criminal Procedure, 1898 (5 of 1898), in so far as they may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code (45 of 1860), is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (5 of 1898), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under Section 482 of the Code of Criminal Procedure, 1898.

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (45 of 1860).

<sup>14</sup>**[5-A. Power of Commission to utilise the services of certain officers and investigation agencies for conducting investigation pertaining to inquiry.**—(1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services,—

13. *Ins. by Act 79 of 1971, S. 7 (w.e.f. 30-12-1971).*

14. *Ins. by Act 79 of 1971, S. 8 (w.e.f. 30-12-1971).*



- (a) in the case of a Commission appointed by the Central Government, of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be; or
- (b) in the case of a Commission appointed by the State Government, of any officer or investigation agency of the State Government or Central Government with the concurrence of the State Government or the Central Government, as the case may be.

(2) For the purpose of investigation into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission,—

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(3) The provisions of Section 6 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency, whose services are utilised under sub-section (1), shall investigate into any matter pertaining to the inquiry and submit a report thereon (hereafter in this section referred to as the investigation report) to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusions, if any, arrived at in the investigation report submitted to it under sub-section (4), and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.]

<sup>15</sup>[**5-B. Power of Commission to appoint assessors.**—The Commission may, for the purpose of conducting any inquiry, appoint persons having special knowledge of any matter connected with the inquiry as assessors, to assist and advice the Commission in the inquiry and the assessors shall be entitled to such travelling and other expenses as may be prescribed.]

**6. Statements made by persons to the Commission.**—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

- (a) is made in reply to a question which he is required by the Commission to answer, or
- (b) is relevant to the subject-matter of the inquiry.

<sup>16</sup>[6-A. **Persons not obliged to disclose secret process of manufacture of goods in certain cases.**—Except in cases where a Commission is expressly required to inquire into the process of manufacture of any goods, nothing in this Act shall be deemed to compel any person giving evidence before the Commission to disclose any secret process of manufacture thereof.]

<sup>17</sup>[7. **Commission to cease to exist when so notified.**—(1) The appropriate Government may, by notification in the Official Gazette, declare that—

- (a) a Commission (other than a Commission appointed in pursuance of a resolution passed by <sup>18</sup>[each House of Parliament or, as the case may be, the Legislature of the State]) shall cease to exist, if it is of opinion that the continued existence of the Commission is unnecessary;
- (b) a Commission appointed in pursuance of a resolution passed by <sup>19</sup>[each House of Parliament or, as the case may be, the Legislature of the State], shall cease to exist if a resolution for the discontinuance of the Commission is passed by <sup>20</sup>[each House of Parliament or, as the case may be, the Legislature of the State].

(2) Every notification issued under sub-section (1) shall specify the date from which the Commission shall cease to exist and on the issue of such notification, the Commission shall cease to exist with effect from the date specified therein.]

**8. Procedure to be followed by the Commission.**—The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) <sup>21</sup>[\* \* \*].

<sup>22</sup>[8-A. **Inquiry not to be interrupted by reason of vacancy or change in the constitution of the Commission.**—(1) Where the Commission consists of two or more members, it may act notwithstanding the absence of the Chairman or any other member or any vacancy among its members.

(2) Where during the course of an inquiry before a Commission, a change has taken place in the constitution of the Commission by reason of any vacancy having been filled or by any other reason, it shall not be necessary for the Commission to commence the inquiry afresh and the inquiry may be continued from the stage at which the change took place.

**8-B. Persons likely to be prejudicially affected to be heard.**—If, at any stage of the inquiry, the Commission,—

- (a) considers it necessary to inquire into the conduct of any person; or

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16. *Ins.* by Act 79 of 1971, S. 9 (w.e.f. 30-12-1971).  
 17. *Subs.* by Act 79 of 1971, S. 10 (w.e.f. 30-12-1971).  
 18. *Subs.* by Act 19 of 1990, S. 3 (w.e.f. 28-8-1990).  
 19. *Subs.* by Act 19 of 1990, S. 3 (w.e.f. 28-8-1990).  
 20. *Subs.* by Act 19 of 1990, S. 3 (w.e.f. 28-8-1990).  
 21. The words "and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members" *omitted* by Act 79 of 1971, S. 11 (w.e.f. 30-12-1971).  
 22. *Ins.* by Act 79 of 1971, S. 12 (w.e.f. 30-12-1971).

- (b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

**CASE LAW ► Principles of natural justice.**—Non-compliance with principles of natural justice render Inquiry Commission report invalid, *Sanjay Gupta v. State of U.P.*, (2015) 5 SCC 283 : (2015) 2 SCC (Civ) 796.

**8-C. Right of cross-examination and representation by legal practitioner.**—The appropriate Government, every person referred to in Section 8-B and, with the permission of the Commission, any other person whose evidence is recorded by the Commission,—

- (a) may cross-examine a witness other than a witness produced by it or him;
- (b) may address the Commission; and
- (c) may be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person.]

**NOTES ► Right to cross-examine witness**

Rules of natural justice require that a party against whom an allegation is being inquired into should be given a hearing.

The right to the hearing does not include a right to cross-examine. The right must depend upon the circumstances of each case and must also depend on the statute under which the allegations are being inquired into. It is to be noted that the Commissions of Inquiry Act permits a Commission of Inquiry to be set up for fact-finding purposes. The report of the Commission has no force *proprio vigore*. This aspect of the matter is important in deciding the rules of natural justice reasonably applicable in the proceedings of the Commission of Inquiry under the Act. Then we find that Section 10 of the J & K Act which corresponds to Sections 8-B and 8-C of the Central Act gives a right to be heard but only a restricted right of cross-examination. The latter right is confined only to the witnesses called to depose against the person demanding the right. So the Act did not contemplate a right of hearing to include a right to cross-examine. It will be natural to think that the statute did not intend that in other cases a party appearing before the Commission should have any further right of cross-examination.

**9. Protection of action taken in good faith.**—No suit or other legal proceeding shall lie against the appropriate Government, the Commission or any member thereof, or any person acting under the direction either of the appropriate Government or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder or in respect of the publication, by or under the authority of the appropriate Government or the Commission of any report, paper or proceedings.

**10. Members, etc., to be public servants.**—Every member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

<sup>23</sup>[**10-A. Penalty for acts calculated to bring the Commission or any member thereof into disrepute.**—(1) If any person, by words either spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Commission or any member thereof into disrepute, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine, or with both.

<sup>24</sup>[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), when an offence under sub-section (1) is alleged to have been committed, the High Court may take cognizance of such offence, without the case being committed to it, upon a complaint in writing, made by a member of a Commission or an officer of the Commission authorised by it in this behalf.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No High Court shall take cognizance of an offence under sub-section (1) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(5) A High Court taking cognizance of an offence under sub-section (1) shall try the case in accordance with the procedure for the trial of warrant cases instituted otherwise than on a police report before a court of a Magistrate:

Provided that the personal attendance of a member of a Commission as a complainant or otherwise is not required in such trial.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie as a matter of right from any judgment of the High Court to the Supreme Court, both on facts and on law.

(7) Every appeal to the Supreme Court under sub-section (6) shall be preferred within a period of thirty days from the date of the judgment appealed from:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.]]

**11. Act to apply to other inquiring authorities in certain cases.**—Where any authority (by whatever name called), other than a Commission appointed under Section 3, has been or is set up under any resolution or order of the appropriate Government for the purpose of making an inquiry into any definite matter of public importance and that Government is of opinion that all or any of the provisions of this Act should be made applicable to that authority, that Government may, subject to the prohibition contained in the proviso to sub-section (1) of Section 3, by notification in the Official Gazette, direct that the said provisions of this Act shall apply to that authority, and on the issue of such a notification that authority

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23. *Ins.* by Act 79 of 1971, S. 13 (w.e.f. 30-12-1971).

24. *Subs.* by Act 63 of 1988, S. 3 (w.e.f. 10-12-1988).



shall be deemed to be a Commission appointed under Section 3 for the purposes of this Act.

**12. Power to make rules.**—(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the term of office and the conditions of service of the members of the Commission;
- (b) the manner in which inquiries may be held under this Act and the procedure to be followed by the Commission in respect of the proceedings before it;
- (c) the powers of civil court which may be vested in the Commission;
- <sup>25</sup>[(cc) The travelling and other expenses payable to assessors appointed under Section 5-B, and to persons summoned by the Commission to give evidence or to produce documents before it.]
- (d) any other matter which has to be, or may be, prescribed.

<sup>26</sup>[(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or <sup>27</sup>[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

<sup>28</sup>[(4) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.]

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25. *Ins.* by Act 63 of 1988, S. 4 (w.e.f. 10-12-1988).

26. *Ins.* by Act 79 of 1971, S. 14 (w.e.f. 30-12-1971).

27. *Subs.* by Act 4 of 1986, S. 2 and Sch. (w.e.f. 15-5-1986).

28. *Ins.* by Act 4 of 1986, S. 2 and Sch. (w.e.f. 15-5-1986).